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AFA

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
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PATENT APPLICATION

ATTORNEY DOCKET NO. 10992150-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Tony M. Brewer et al.	Confirmation No.:	2277
Application No.:	09/521,827	Examiner:	M. H. Pollack
Filing Date:	03/09/2000	Group Art Unit:	2145

Title: PROTOCOL FOR INSURING EXACTLY ONCE SEMANTICS OF TRANSACTIONS ACROSS AN UNORDERED, UNRELIABLE NETWORK

Mail Stop Appeal Brief-Patents
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PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 11/30/2005.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐	1st Month $120	☐	2nd Month $450	☐	3rd Month $1020	☐	4th Month $1590

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of $ 500. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

(X) I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482724199US, in an envelope addressed to: MS Appeal Brief- Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date of Deposit: January 30, 2006

Typed Name: Laura Horton

Signature: Laura Horton

Respectfully submitted,

Tony M. Brewer et al.

By _____

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Docket No.: 10992150-1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tony M. Brewer et al.

Application No.: 09/521,827

Confirmation No.: 2277

Filed: March 9, 2000

Art Unit: 2145

For: PROTOCOL FOR INSURING EXACTLY ONCE SEMANTICS OF TRANSACTIONS ACROSS AN UNORDERED, UNRELIABLE NETWORK

Examiner: M. H. Pollack

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under 37 C.F.R. § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on November 30, 2005, and is in furtherance of said Notice of Appeal.

The fees required under 37 C.F.R. § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Hewlett-Packard Development Company, L.P., a Texas Limited Partnership having its principal place of business in Houston, Texas.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 24 claims pending in application.

B. Current Status of Claims

1. Claims canceled: None
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-24
4. Claims allowed: None
5. Claims rejected: 1-24

C. Claims On Appeal

The claims on appeal are claims 1-24

IV. STATUS OF AMENDMENTS

The Appellant has not filed a Response after the Office Action mailed on October 31, 2005 (hereinafter the "Final Action").

V. SUMMARY OF CLAIMED SUBJECT MATTER

According to claim 1, a method for executing a data operative transaction in a network having a source site and a destination site comprises: transmitting an initial transaction request message from said source site to said destination site [pg. 14, lines 11-17]; receiving said transaction request message at said destination site [pg. 15, lines 8-9; pg. 14, lines 11-17]; generating a data entry related to the progress of said data operative transaction in a destination database [pg. 13, lines 20-24]; and preserving said association of said data entry with said data operative transaction in said destination database so long as said data operative transaction is active in said network [pg. 13, lines 15-17].

According to claim 14, a system for reliably executing a data operative transaction at a destination site requested by a source site comprises: means for transmitting an initial transaction request message to said destination site from said source site [pg. 14, lines 11-17]; means for executing said data operative transaction associated with said initial transaction request message at said destination site [pg. 15, lines 8-9; pg. 14, lines 11-17]; a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction [pg. 13, lines 12-14; pg. 14, lines 14-17; pg. 16, lines 9-11].

According to claim 20, a system for executing a data operative transaction in a network having a source site and a destination site comprises: means for transmitting an initial transaction request message from said source site to said destination site [pg. 14, lines 11-17]; means for receiving said transaction request message at said destination site [pg. 15, lines 8-9; pg. 14, lines 11-17]; means for establishing a plurality of data entries related to the progress of said data operative transaction in a destination database located at said destination site [pg. 13, lines 20-24]; and means for preserving said data entries in said destination database so long as said data operative transaction is active in said network [pg. 13, lines 15-17].

According to claim 24, a method for executing a memory device control transaction in a network having a source site and a destination site comprises: transmitting an initial transaction request message from said source site to said destination site [pg. 14, lines 11-17]; receiving said transaction request message at said destination site [pg. 15, lines 8-9; pg. 14, lines 11-17]; establishing a plurality of data entries related to the progress of said memory device control transaction in a destination database [pg. 13, lines 20-24]; and preserving said association of said data entry with said memory device control transaction in said destination database so long as said transaction is active in said network [pg. 13, lines 15-17].

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether or not claims 1, 2, 4, 14-16, and 20-24 properly stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,838,920 to Rosborough (hereinafter "Rosborough").

B. Whether or not claims 3 and 7-9 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 6,385,642 to Chlan et al (hereinafter "Chlan").

C. Whether or not claims 5, 6, and 19 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 5,774,479 to Lee et al (hereinafter "Lee").

D. Whether or not claims 10-12 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 6,385,642 to Jalili et al (hereinafter "Jalili").

E. Whether or not claims 13, 17, and 18 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 6,385,642 to Forman et al (hereinafter "Forman").

VII. ARGUMENT

A. Rejection Under 35 U.S.C. 102(b)

Claims 1, 2, 4, 14-16, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosborough.

It is well settled that to anticipate a claim, the reference must teach every element of the claim. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim." *see In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *see Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989).

Claim 1 recites generating a data entry related to the progress of said data operative transaction in a destination database. In the Final Action, the Examiner points to Rosborough, at Figs. 1, 2, 6A and col. 6, lines 30-60, to teach " generating a data entry..." (*see* Final Action, paragraph 9). Further, the Examiner opines that "the recording device [of Rosborough] receives all of the packets (col. 5, lines 20-30; col. 6, lines 50-60), and therefore may be considered a destination device." (*see id.* at paragraph 3). As such, the Examiner equates Rosborough's recording device 20 (Fig. 1) as a destination database. However, even if the Examiner is correct in equating Rosborough's recording device to a destination device, which the Appellant does not concede as accurate, the recording device does not generate data packets. This is confirmed by referring to the Examiner's own citation, which reads "all of the service packets on the communications line with be read by recording device 20..." (Rosborough col. 5, lines 26-29). The Appellant points out that reading service packets is not the same as generating a data entry. According to Rosborough, the data packets are generated by the client computer or the server computer. (*see* Rosborough col. 6, lines 5-15). Thus, Rosborough does not generate a data entry...in a destination database as recited in claim 1. Therefore, the Appellant respectfully requests the 35 U.S.C. 102 rejection of record be withdrawn.

Claim 2 recites executing said data operative transaction at said destination site, thereby producing transaction results. In the Final Action, the Examiner points to Rosborough, at Fig. 4, to teach this limitation. However, at the Examiner's citation Rosborough merely depicts a stream of "service results packets" or "service requests."

Moreover, further inspection of the Examiner's cited reference confirms that Rosborough does not teach executing said data operative transaction at said destination site as recited in claim 2. Rather, Rosborough merely describes a recording device 20 (which the Examiner equates to a destination site) that "selects service packets and provides the time at which the service packet was received." (*see* Rosborough at col. 5, lines 1-5). Thus, Rosborough does not teach every limitation of the Appellant's claimed invention. Therefore, the Appellant respectfully requests the 35 U.S.C. 102 rejection of record be withdrawn.

Claim 14 recites a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction. In the Final Action, the Examiner attempts to satisfy this limitation in stating "the recording device is placed between a client computer and a server computer (col. 4, line 65- col. 5, line 1) and therefore is part of the system." (*see* Final Action, paragraph 3). The Appellant respectfully notes that in his rejection of claim 1, the Examiner points to recording device 20 as a "destination device." However, as the Appellant best understands, it is unclear whether the Examiner wishes to use recording device 20 as a "destination device" or a "reservation database." (*see id.*). In any event, the Appellant submits that the Examiner's own citation demonstrates the Rosborough fails to teach this limitation. At the Examiner's citation, Rosborough merely recites "recording device 20 is connected to a busline between a client computer and a server computer." (*see* Rosborough, col. 4, line 65- col. 5, line 1). According to the Examiner's logic, a reservation database "between" two other components could be placed virtually anywhere along a communication line between those components, subject to virtually any physical arrangement, separated by any number of devices, and would still be considered "at" a destination site. Put simply, "between a client computer and a server computer" is not the same as "...at a destination device..." as recited by claim 14. Therefore, the Appellant respectfully requests the 35 U.S.C. 102 rejection of record be withdrawn.

Claim 20 recites "means for establishing a plurality of data entries...in a destination database located at said destination site." As the Appellant best understands, the Examiner does not specifically point out this limitation as being met by any cited reference (*see*, for example, Final Action, paragraph 9[a-d]). Nevertheless, according to the Examiner's logic in rejecting previous claims, the Final Action equates Rosborough's session between a requester

node and a service provider with the "data operative transaction," individual packets of that session with "data entries," and a recording device 20 (from Figure 1) as a destination database. However, without conceding that these features of Rosborough can be equated with features of claim 20, the Appellant respectfully points out that storage device 20 is not at server computer 32. Instead, storage device 20 is designed and intended by Rosborough to be on communication line 24 between the points of access of the client or server computers.(*see* Rosborough col. 4, line 65- col. 5, line 1). Thus, storage device 20 is not at destination database located at said destination site, and Rosborough does not teach each and every limitation of claim 20. Therefore, the Appellant respectfully requests the 35 U.S.C. 102 rejection of record be withdrawn.

Claim 24 recites establishing a plurality of data entries related to the progress of said memory device control transaction in a destination database. As the Appellant best understands, the Examiner does not specifically point out this limitation as being met by any cited reference (*see*, for example, Final Action, paragraph. 9[a-d]). Nevertheless, according to the Examiner's logic in rejecting previous claims, the Examiner points to Rosborough, at Figs. 1, 2, 6A and col. 6, lines 30-60, to teach this limitation. (*see* Final Action, paragraph 9). Further, the Examiner opines that "the recording device [of Rosborough] receives all of the packets (col. 5, lines 20-30; col. 6, lines 50-60), and therefore may be considered a destination device." (*see id.* at paragraph 3). As such, the Examiner equates Rosborough's recording device 20 (Fig. 1) as a destination database. However, even if the Examiner is correct in equating Rosborough's recording device to a destination device, which the Appellant does not concede as accurate, the recording device does not establish a plurality of data entries. This is confirmed by referring to the Examiner's cited reference, which reads "all of the service packets on the communications line with be read by recording device 20..." (Rosborough col. 5, lines 26-29). The Appellant points out that reading service packets is not the same as establishing a plurality of data entries. According to Rosborough, the data packets are established by the client computer or the server computer. (*see* Rosborough col. 6, lines 5-15). Thus, Rosborough does not establish a plurality of data entries...in a destination database as recited in claim 24. Therefore, the Appellant respectfully requests the 35 U.S.C. 102 rejection of record be withdrawn.

Claims 4, 15, 16, and 21-24 depend from one of claims 1, 14, and 20. Thus each of claims 4, 15, 16, and 21-24 inherit limitations from its respective base claim not taught by *Rosborough*. Although each of claims 4, 15, 16, and 21-24 recite limitations that make it patentable in its own right, each of claims 4, 15, 16, and 21-24 is at least patentable for depending from a patentable base claim. Therefore, the Appellant respectfully requests the 35 U.S.C. 102 rejection of record be withdrawn.

B. Rejections Under 35 U.S.C. 103(a)

The Final Action rejects claims 3, 5-13, and 17-19 as obvious in light of combined references. However, the Appellant respectfully asserts that none of the combinations proposed is capable of establishing a prima facie case for the claims rejected. The Appellant respectfully notes that three criteria must be satisfied to establish a prima facie case of obviousness. First, some motivation must be found for combining the references proposed, either in the references themselves or in the knowledge available to one of ordinary skill in the art at the time of the invention. Second, the combination must have inspired a reasonable likelihood of success. Third, the proposed combination must teach or suggest each an every limitation of the rejected claims. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991). Without conceding the first or the second criteria, the Appellants respectfully assert that the proposed references can not establish the third criteria.

Claims 3 and 7-9 have been rejected over a combination of Rosborough and Chlan. Each of claims 3 and 7-9 depend from claim 1, and thus inherit all of that claim's limitations. As demonstrated above, Rosborough fails to teach or suggest generating a data entry related to the progress of said data operative transaction in a destination database as recited by claim 1. Though not relied on to do so, the Appellant respectfully asserts that Chlan does not teach or suggest this limitation either. Therefore, the combination of Rosborough and Chlan does not establish a prima facie case for rejecting claims 3 and 7-9, and the Appellant respectfully requests the withdrawal of these rejections.

Claims 5, 6 and 19 have been rejected as obvious in light of Rosborough and Lee. However, claims 5 and 6 depend from claim 1 and claim 19 depends from claim 14. As demonstrated above, Rosborough does teach or suggest generating a data entry related to the

progress of said data operative transaction in a destination database as recited by claim 1. Also, Rosborough does not teach or suggest a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction as recited by claim 14. Although not relied on to do so, the Appellant respectfully asserts that Lee does not teach or suggest these missing limitations either. Therefore, the combination of Rosborough and Lee can not establish a prima facie case for rejecting claims 5, 6, and 19, and the Appellant respectfully requests the withdrawal of the rejections of claim 5, 6, and 19.

Claims 10-12 are rejected as obvious over Rosborough and Jalili. However, claims 10-12 depend from claim 1, and thus inherit all of that claim's limitations. As demonstrated above, Rosborough fails to teach or suggest generating a data entry related to the progress of said data operative transaction in a destination database as recited by claim 1. Though not relied on to do so, the Appellant respectfully asserts that Lee does not teach or suggest this missing limitation either. Therefore, the combination of Rosborough and Lee does not establish a prima facie case for rejecting claims 10-12, and the Appellant respectfully requests the withdrawal of the rejections of claim 10-12.

Claims 13, 17, and 18 are rejected as obvious over Rosborough and Forman. However claim 13 depend from claim 1, and claims 17 and 18 depend from claim 14. As demonstrated above, Rosborough does teach or suggest generating a data entry related to the progress of said data operative transaction in a destination database as recited by claim 1. Also, Rosborough does not teach or suggest a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction as recited by claim 14. Although not relied on to do so, the Appellant respectfully assert that Foreman does not teach or suggest these missing limitations either. Therefore, the combination of Rosborough and Foreman can not establish a prima facie case for rejecting claims 13, 17, and 18, and the Appellant respectfully requests the withdrawal of the rejections of claims 13, 17, and 18.

VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A.

IX. EVIDENCE

No evidence pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, or entered by or relied upon by the examiner, is being submitted.

X. RELATED PROCEEDINGS

No related proceedings are referenced in (II) above; also, no copies of decisions in related proceedings are provided, hence no Appendix is included.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail, Airbill No. EV482724199US in an envelope addressed to: MS Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: January 30, 2006

Typed Name: Laura Horton

Signature: Laura Horton

Respectfully submitted,

By _____
Michael A. Papalas
Reg. No.: 40,381
Date: January 30, 2006
Telephone No. (214) 855-8186

APPENDIX A

Claims Involved in the Appeal of Application Serial No. 09/521,827

1. A method for executing a data operative transaction in a network having a source site and a destination site, the method comprising the steps of:

transmitting an initial transaction request message from said source site to said destination site;

receiving said transaction request message at said destination site;

generating a data entry related to the progress of said data operative transaction in a destination database; and

preserving said association of said data entry with said data operative transaction in said destination database so long as said data operative transaction is active in said network.

2. The method of claim 1, comprising the further step of:

executing said data operative transaction at said destination site, thereby producing transaction results.

3. The method of claim 2, comprising the further step of:

where a prospective operation will override said transaction results in a memory board,

storing said transaction results in said destination database, thereby enabling retransmission of said transaction results if a further reservation request message is received at said destination site.

4. The method of claim 2, comprising the further step of:

transmitting said transaction results to said source site over said network.

5. The method of claim 1 comprising the further step of:

transmitting another transaction request message if no response is received from said destination site at said source site within a source site time-out period.

6. The method of claim 5, comprising the further step of:

deleting said initial transaction request message from the network if said transaction request message does not reach said destination site within a request message time-out period, wherein said source site time-out period exceeds said request message time-out period to prevent having two transaction request messages simultaneously in transmission through said network.

7. The method of claim 4, comprising the further steps of:

upon receiving a duplicate transaction request message,

identifying the data entry in the destination database established for said data operative transaction;

acquiring said transaction results; and

retransmitting said acquired transaction results to said source site.

8. The method of claim 7, wherein the step of acquiring comprises:

retrieving said transaction results from said destination database.

9. The method of claim 7, wherein the step of acquiring comprises:

executing said data operative transaction in response to said duplicate transaction request message, thereby producing said transaction results.

10. The method of step 4, comprising the further steps of:

receiving said transmitted transaction results at said source site; and

transmitting, from said source site to said destination site, a release request to delete said data entry associated with said data operative transaction in said destination database.

11. The method of step 10, comprising the further steps of:

receiving at said destination site, said release request to delete said data entry associated with said data operative transaction; and

deleting, within said destination database, said data entry associated with said data operative transaction, thereby liberating space in said destination database.

12. The method of step 11, comprising the further step of:

transmitting, from said destination site to said source site, a release response message, thereby indicating that said data entry associated with said data operative transaction in said destination database has been deleted.

13. The method of step 1, comprising the further step of:

wherein the source site includes a processor and an agent device,

delegating said step of transmitting said initial transaction request message to said agent device.

14. A system for reliably executing a data operative transaction at a destination site requested by a source site, the system comprising:

means for transmitting an initial transaction request message to said destination site from said source site;

means for executing said data operative transaction associated with said initial transaction request message at said destination site;

a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction.

15. The system of claim 14, wherein the reservation database is a content addressable memory.

16. The system of claim 14, wherein the source site comprises:

a processor; and the destination site comprises:

a memory.

17. The system of claim 16, wherein the source site further comprises:

a processor agent device for conducting communication with said destination site, thereby enabling said processor to efficiently concentrate on other tasks.

18. The system of claim 17, wherein the source site further comprises:

a source site database for preserving an identification and a status of said data operative transaction until said transaction is complete.

19. The system of claim 16, wherein the processor agent device comprises:

a timer for initiating a retransmission of said transaction request message if no message responsive to said initial transaction request message is received at said processor agent device upon expiration of a retransmission time-out period.

20. A system for executing a data operative transaction in a network having a source site and a destination site, the system comprising:

means for transmitting an initial transaction request message from said source site to said destination site;

means for receiving said transaction request message at said destination site;

means for establishing a plurality of data entries related to the progress of said data operative transaction in a destination database located at said destination site; and

means for preserving said data entries in said destination database so long as said data operative transaction is active in said network.

21. The method of claim 1 wherein said data operative transaction is one of a memory read and a memory write.

22. The system of claim 14 wherein said data operative transaction is one of a memory read and a memory write.

23. The system of claim 20 wherein said data operative transaction is one of a memory read and a memory write.

24. A method for executing a memory device control transaction in a network having a source site and a destination site, the method comprising the steps of:

transmitting an initial transaction request message from said source site to said destination site;

receiving said transaction request message at said destination site;

establishing a plurality of data entries related to the progress of said memory device control transaction in a destination database; and

preserving said association of said data entry with said memory device control transaction in said destination database so long as said transaction is active in said network.

APPENDIX B

Evidence presented: None

APPENDIX C

Related Proceedings: None